

**UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NORTH CAROLINA  
RALEIGH DIVISION**

**IN RE:**

**CEDRIC ROBINSON,**

**DEBTOR.**

**16-00841-5-DMW  
CHAPTER 13**

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**OBJECTION TO NOTICE OF MORTGAGE PAYMENT CHANGES  
FILED BY RUSHMORE LOAN MANAGEMENT SERVICES, LLC,  
SERVICER FOR MTGLQ INVESTORS, LP**

**NOW COMES** the Debtor, by and through Attorney Michael W. Hopper, and hereby objects to the Notice of Mortgage Payment Changes filed by Rushmore Loan Management Services, LLC, Servicer for MTGLQ Investors, LP on July 23, 2019 and August 14, 2019 (Court Doc. No. 34); and in support thereof, shows unto the Court the following:

1. Debtor filed a petition under chapter 13 petition on February 18, 2016 ("Petition Date").
2. Debtor's real property and primary residence is located at 500 Morton Farm Road, Holly Springs, NC 27540, Wake County Registry Deed Book 10888, Page 1671 ("Real Property").
3. Upon information and belief, MTGLQ Investors, LP ("MTGLQ") by assignment and transfer from Wilmington Savings Fund Society, FSB ("WSFS"), d/b/a/ Christiana Trust, as indenture trustee, for the CSMC 2015-RPL2 Trust, Mortgage-Backed Notes, Series 2015-RPL2, is the note holder of a first mortgage loan secured by Debtor's Real Property. MTGLQ's secured loan is serviced by Rushmore Loan Management Services, LLC ("RLM") by assignment and transfer from Select Portfolio Servicing Inc ("SPS"). The transfer and assignment of the loan and servicer of the loan occurred, on or about, July 19, 2019 (Court Doc. No. 33).
4. WSFS filed a secured proof of claim on June 21, 2016 (Court Claim 1-1) in the amount of \$225,544.86 that included an arrearage claim of \$11,408.35 and an ongoing, long-term, conduit mortgage payment of \$860.20 with a variable annual interest rate of four percent (4%).
5. The confirmed Chapter 13 Plan provided for conduit payments to RLM in the amount of \$860.20 each month for a first mortgage loan secured by Real Property.
6. Rushmore filed its first Notice of Mortgage Payment Change (Court Doc. No. 34) on July 23, 2019, indicating that the conduit mortgage payment of \$860.20 must be increased to \$1,971.69 due to the variable annual interest rate changing from 4% to 8.99%, and it filed a second Notice of Mortgage Payment Change on August 14, 2019, indicating that the conduit mortgage payment must be increased from \$1,971.69 to \$2,002.80 due to escrow payment increasing from \$268.71 to \$299.82.
7. Per Paragraphs 5 and 6 of the *Loan Modification Agreement (Providing for Step Interest Rate)* ("Loan Modification"), included as an exhibit with the proof of claim filed by WSFS (Court Claim 1-1), and per the Debtor's executed copy of the same agreement, the variable yearly interest rate is ambiguous and is as follows:

¶5 **Repayment Terms:** “Borrower promises to pay the Unpaid Principle Balance, plus interest, to the order of the lender. Interest will be charged on the Unpaid Principle Balance for the first five years at the yearly rate of **3.268%**, from **07/01/09** and Borrower promises to pay monthly payments of principal and interest in the amount of **\$826.27**, beginning on **08/01/09**. During the sixth year, interest will be charged at the yearly rate of **4.268%**, from **07/01/14**, and Borrower shall pay monthly payments of principal and interest in the amount of **\$948.60** beginning on **08/01/2014**. During the 7<sup>th</sup> year an continuing thereafter until the Maturity date (as hereinafter defined), interest will be charged at the yearly rate of **4.820%**, from **07/01/15**, and Borrower shall pay monthly payments of principal and interest in the amount of **\$996.33** beginning on **08/01/15** and shall continue the monthly payments thereafter on the same day of each succeeding month until principal and interest are paid in full.” ...

¶6 **Time and Place of Payments:** The Borrower promises to make monthly principal and interest payments of **U.S. \$862.27**, beginning on **08/01/09**, and continuing thereafter on the same day of each succeeding month until principal and interest are paid in full.” ...

8. Debtor’s attorney, to seek more information about the filed mortgage payment changes and the contradictory language in the Loan Modification, contacted opposing counsel’s office for RLM; however, as of the date of this Motion, no additional information has been provided to debtor’s attorney nor has an amendment(s) been filed by RLM or counsel for RLM.
9. The Notice of Mortgage Payment Change should be denied due to its inaccuracy in failing to adhere to the terms and conditions as set forth in the Loan Modification Agreement (Providing for Step Interest Rate) executed by both Creditor and Debtor preceding this chapter 13 case and as filed in the Creditor’s proof of claim.

WHEREFORE, the Debtor prays that this Court grant the Debtor’s objection to the Notice of Mortgage Payment Change filed by Rushmore Loan Services, LLC for the reasons stated above and grant any such other relief as the Court deems just and proper.

This the 11th day of September 2019

Respectfully Submitted:

By: /s/ Michael W. Hopper  
Michael W. Hopper  
Attorney for Debtor  
Hopper, Hopper & Mulligan, PLLC  
N.C. State Bar No. 38252  
5400 Glenwood Avenue, Suite G01  
Raleigh, North Carolina 27612  
919.876.3300; 919.809.8853 (Facsimile)  
[Michael@hbm.legal](mailto:Michael@hbm.legal)

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**NOTICE OF OBJECTION TO NOTICE OF MORTGAGE PAYMENT CHANGE**  
**FILED RUSHMORE LOAN MANAGEMENT SERVICES, LLC,**  
**SERVICER FOR MTGLQ INVESTORS, LP**

TO: Rushmore Loan Management Services, LLC Servicer for MTGLQ Investors, LP and the  
TRUSTEE:

NOTICE IS GIVEN of the Objection to Notice of Mortgage Payment Change; and

FURTHER NOTICE IS GIVEN that if you fail to respond or otherwise plead or request a hearing in writing within thirty (30) days from the date of this notice, the relief requested in the Objection may be granted without further hearing or notice; and

FURTHER NOTICE IS GIVEN that if a response and a request for a hearing is filed in writing within the time indicated, a hearing will be conducted on the Objection and Response at a date, time, and place to be later set and all parties will be notified accordingly.

Respectfully submitted this the 11th day of September 2019.

By: /s/ Michael W. Hopper  
Michael W. Hopper  
Hopper, Hopper & Mulligan, PLLC  
N.C. State Bar No. 38252  
Attorney for Debtor  
5400 Glenwood Avenue, Suite G-01  
Raleigh, North Carolina 27612  
919.876.3300; 919.809.8853 (Facsimile)  
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**CERTIFICATE OF SERVICE**

I, Michael Hopper, of Hopper & Mulligan, PLLC, do hereby certify, under penalty of perjury, that I am and at all times hereinafter mentioned, was more than eighteen (18) years of age;

And that on September 11, 2019, I served a copy of the foregoing Objection to Notice of Mortgage Payment Change and Notice of Objection upon the following parties:

<u>VIA CM/ECF</u> John F. Logan Chapter 13 Trustee	<u>VIA FIRST CLASS MAIL</u> Cedrick Robinson 500 Morton Farm Road, Holly Springs, NC 27540	<u>VIA FIRST CLASS MAIL</u> Shapiro & Ingle Andrew L. Vining 10130 Perimeter Parkway, Suite 400 Charlotte, NC 28216
<u>VIA CERTIFIED MAIL</u> Rushmore Loan Management Services, LLC Servicer for MTGLQ Investors, LP 15480 Laguna Canyon Rd. Suite 100 Irvine, CA 92618	<u>VIA FIRST CLASS MAIL</u> Rushmore Loan Management Services, LLC Servicer for MTGLQ Investors, LP 15480 Laguna Canyon Rd. Suite 100 Irvine, CA 92618	<u>VIA FIRST CLASS MAIL</u> Hutchens Law Firm Joseph J. Vonnegut (Notice) PO BOX 2505 4317 Ramsey Street Fayetteville, NC 28302

I certify under penalty of perjury that the foregoing is correct.

This the 11th day of September.

By: /s/ Michael W. Hopper  
Michael W. Hopper  
Hopper, Hopper & Mulligan, PLLC  
N.C. State Bar No. 38252  
Attorney for Debtor  
5400 Glenwood Avenue, Suite G-01  
Raleigh, North Carolina 27612  
919.876.3300; 919.809.8853 (Facsimile)  
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